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SUBJECT: STAYING AHEAD OF PROLIFERATORS REVOLVES AROUND
BETTER COMMUNICATION

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11. (SBU) SUMMARY: As the global financial crisis adds pressure to stimulate growth through increased exports despite the ever increasing threat from proliferation/terrorism, the question of how to effectively administer national export control measures has never been more important or for that matter; more challenging. At the June 15-16 Berlin Export Control Seminar on Risk Assessment in Licensing, international export control and nonproliferation experts discussed ways to prevent proliferation without harming legitimate trade. To combat the threat posed by increasingly sophisticated proliferators, conference presenters emphasized the importance of establishing collective export control synergy both internationally; through information sharing within export control regimes, and within country; through improved interagency communication and outreach to industry. USG participation included presentations from Department of State ISN/MTR and DTCC offices and from the Department of Commerce.
END SUMMARY

FIGHTING NON-PROLIFERATION IN TIMES OF RECESSION

12. (SBU) The global financial meltdown has severely diminished worldwide exports of technical goods and created pressure from industry and governments to ease export control restrictions to stimulate economic growth and jobs. Hartmut Schauerte, German Ministry of Economics (BMWi) Parliamentary Secretary, opened the German-hosted seminar on Risk Assessment in Licensing by stressing the need for the EU "to not neglect export control" given the effects of the financial crisis and noted Germany's 28 percent plunge of their 6.3 billion euro export industry from the previous year. Schauerte said future success combating nonproliferation in the EU rests squarely with their ability to work with industry and make their export control policies transparent. French and Australian export control officials reiterated Schauerte's sentiment to strive for a balance between trade and proliferation concerns.

BRAZIL SAYS TO THINK GLOBALLY NOT LOCALLY

13. (SBU) Brazilian State Minister for Export Control, Santiago Mourao, encouraged nations to "think globally and not locally" and proposed creating an overarching structure to bring together the four export control regimes; Wassenaar Arrangement (WA), Missile Technology Control Regime (MTCR), Australia Group (AG), and Nuclear Suppliers Group (NSG). Mourao said the export control regimes are "good, but not enough" and the international community must find a way to work together in a cohesive way to close loopholes. Mourao made the point that the regimes are already loosely linked and urged further cooperation and communication. He also cited United Nations Security Council Resolutions (UNSCRs) on Iran and North Korea, which utilize the regime lists to define where action should be taken.

PROLIFERATORS EXPLOITING EXPORT CONTROL WEAKNESSES

14. (SBU) A number of presenters noted that as proliferators evolve their tactics, they are finding increasingly sophisticated evasive ways to take advantage of export control loopholes and are primarily targeting communication deficiencies among worldwide export control systems. Proliferators are privileged to vast resources of open source information about export controls and enforcement efforts, which they leverage to conceal the goods and/or the actual end-use, and end-users of items of proliferation concern so as to avoid setting off proliferation flags. Seminar presenters shared examples of cases where proliferators have become particularly adept at gaming export control systems to achieve their goals. The primary tactic discussed was

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multi-pronged procurement efforts through networks of suppliers/brokers attempting to acquire dual-use/weapons-related items. This "shotgun approach" works by requesting similar items through several export control systems simultaneously to procure a desired technology, which inherently increases the odds of the illicit procurement slipping through at least one system.

FIXING THE COMMUNICATION LOOPHOLE REMAINS A CHALLENGE

15. (SBU) Conference presenters emphasized the critical role intelligence information plays in evaluating risk in the export control decision making process and noted difficulties disseminating this information to foreign partners. This creates an information gap that can result in proliferators not being monitored or tracked as closely as needed and even falling through the cracks.⁸ In this context, some presenters stressed the need for increased information sharing among countries on export denial case details. For example, Juergen Boehler from the Swiss Export Control Office (EVD) emphasized the value his agency places on export denials from regime partners and encouraged all regime members to file denials within the nonproliferation regimes.

PROBLEMS WITH LEGAL TERMS/DEFINITIONS

16. (SBU) A great deal of discussion centered around interpretation of terms defined in international export control policy and how this effects resultant action taken against proliferators. Specifically, the legal definitions of what a broker⁸ are, who "state actors" are, and what constitutes "dual-use" resonated strongly with the presenters and audience. Mourao pointed out that UNSCR 1540 calls for nations to "take action" on "state actors", which he said was subject to interpretation and could lead to irregularities in implementation. He called for nations to universally define

(1) what a state actor is and (2) what is illegal. Some conference presenters complained that weak definitions of a broker are sometimes a limiting factor for export control authorities to take action.

PROBLEMS WITH BROKERS AND TRANSSHIPMENT POINTS

17. (SBU) Several presenters discussed how proliferators are using brokers and transshipment points to create layers of complexities making it difficult for export control systems to assess risk and track dual-use goods from the producer to the final end-user. Licensing and enforcement officials in many countries rely heavily on information gleaned from the original export application, end-use statement, intermediary signatures, and final end-user certificate of receipt to obtain a level of confidence that sensitive items are not diverted. However, once the export leaves the producer and the legal territoriality of the producer's host country, ensuring export control non-proliferation compliance becomes extremely difficult for many countries.

18. (SBU) Boehler stated, "You can never stop proliferation, but you can make it more expensive and slow it down." He centered his presentation on the role trading companies and brokers play in the overall risk of diversion for dual-use items. He said under Swiss law, brokers and trading companies are not subject to the same export restrictions as the original exporter, financial institutions, and shipping companies, which exposes a weakness in the overall export control system. Klaas Leenman, of the Dutch Customs Authority, and Steven Goodinson, a trade specialist within the Canadian MFA, reiterated Boehler's point that identifying brokers and transshipment points is the primary challenge to their respective export control systems.

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19. (SBU) Karl Wendling, BMWi State Secretary, emphasized the proliferation risk involved with custom free zones such as in Dubai. Wendling said that the risk associated with the transport of dual-use goods through export free zones needs to be addressed and that export control-related outreach activities would be of particular value to these areas.

TREND: AUTOMATED RISK ASSESSMENT TO SAVE RESOURCES

10. (SBU) A number of presenters noted that for countries with significant export industries, a robust export control system puts a significant strain on labor and financial resources. Several also indicated desire for an increasingly automated and paperless export control system to evaluate risk. John Doddrell, Director of the UK Export Control Organization, explained that the UK's export control processing efficiency improved after having adopted a completely paperless system called SPIRE in an effort to lessen the burden on labor and financial resources. In addition, Doddrell said the UK developed general and open licenses to enable exporters to use a single license for a range of exports to a range of countries. Doddrell said these new approaches have led to improvements from 2003 to 2008 (before/after SPIRE) of over 50 percent in total resource efficiency while maintaining the same license issuance turn-around time. Doddrell said the UK is now advocating for the adoption of SPIRE in all of Europe.

11. (SBU) Although the paradigm shift to more automation for efficiency reasons made sense to many, questions were voiced about the level of quality assurance and opportunities for proliferators to game the rules governing automated systems to further their proliferation goals. An Australian export control official also warned that automation is not the complete answer that some claim and brings about its own

problems.
Bradtke